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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,115	06/25/2003	Curt A. Steeb	MS1-1463US	3691
22801	7590	08/24/2006	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			WOOD, WILLIAM H	
			ART UNIT	PAPER NUMBER
			2193	

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/607,115	Applicant(s) STEEB ET AL.	
	Examiner William H. Wood	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-17,19-31 and 33-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-17,19-31 and 33-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>05152006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1, 3-17, 19-31 and 33-40 are pending and have been examined.

Status of Application

1. In view of the Appeal Brief filed on 15 May 2006, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-8, 10-11, 14-16, 19-23, 27-30 and 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Miyamoto** et al. (USPN 6,986,033) in view of **Babbitt** et al (US Publication 2002/0198972).

Claim 1

Miyamoto disclosed an apparatus configured to manage installation of operating systems on a plurality of computing devices (*column 2, lines 40-41*), wherein the installation is performed across the plurality of computing devices asynchronously (*column 6, lines 30-42, "executes OpBoot" and "ActiveOS"*), wherein the installation comprises transferring multiple portions of data to each of the plurality of computing devices, the multiple portions are transferred to the plurality of computing devices asynchronously (*column 6, lines 30-42, "OpBoot" and "ActiveOS"*), and wherein the portions that are transferred to the plurality of computing devices asynchronously include one or more programs to be executed on the plurality of computing devices to configure the plurality of computing devices (*column 5, lines 25-26, "[t]he provisioning agent is used to*

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install desired software on the target machine”, line 30, “agent is part of the ActiveOS”, lines 32-33).

Miyamoto did not explicitly state transferring multiple portions to the plurality of computing devices concurrently. **Babbitt** demonstrated that it was known at the time of invention to transfer data/software/OS via multicasting simultaneously/concurrently to multiple computers (page 1, paragraph 0005, “[m]ulticasting is the transmission of information over the intranet to a select group of clients ... information may be transmitted to multiple clients simultaneously”, “once the client obtains the desired operating system files ...”; paragraph 0008, “[m]ultiple clients can listen on a multicast address and obtain the data simultaneously when a file server process transmits the data”). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Miyamoto** with simultaneous/concurrent data transmission for downloading installable software/data/OS as found in **Babbitt**’s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to transmit data quickly to many destinations and thus speed the operating of a system (page 1, paragraphs 0005 and 0008, “simultaneous”).

Claim 3

Miyamoto and **Babbitt** disclosed an apparatus as recited in claim 2, wherein the portions that are transferred to the plurality of computing devices concurrently are larger than the portions transferred to the plurality of computing devices asynchronously (**Miyamoto**: column 3, lines 64-65, “miniaturized version”).

Claim 4

Miyamoto and **Babbitt** disclosed an apparatus as recited in claim 2, wherein the portions that are transferred to the plurality of computing devices concurrently comprise an image of the operating system being deployed (*page 1, paragraphs 5-7; files*), and wherein the image of the operating system is transferred to the plurality of computing devices after the one or more programs are executed on the plurality of computing devices (**Babbitt**: *page 1, paragraphs 5-10; addresses are successfully configured into the client and thus programs executed before OS arrival*).

Claim 5

Miyamoto and **Babbitt** disclosed an apparatus as recited in claim 1, wherein installation of the operating systems is performed in multiple steps, and wherein the apparatus is configured to perform a first set of the multiple steps asynchronously across the plurality of computing devices, and, after a

particular one of the multiple steps is completed, to perform one or more of the remaining steps of the multiple steps concurrently across the plurality of computing devices (**Babbitt**: page 1, paragraphs 5-7; first network address, then operating system files; **Miyamoto**: figure 2).

Claim 6

Miyamoto and **Babbitt** disclosed an apparatus as recited in claim 5, wherein the one or more remaining steps includes a step of downloading an operating system image to the plurality of computing devices (**Babbitt**: page 1, paragraphs 5-7; first network address, then operating system files).

Claim 7

Miyamoto and **Babbitt** did not explicitly state an apparatus as recited in claim 1, wherein the apparatus further comprises:

- ♦ a controller to maintain a record of the plurality of computing devices being managed by the apparatus (**Babbitt**: page 1, paragraph 6; receiving address for communication to other computers; **Miyamoto**: figure 2, element 202);
- ♦ a network boot service to control how the plurality of computing devices are to boot (**Babbitt**: page 1, paragraphs 5-7; boot service being the collective boot operations of the various systems; **Miyamoto**: figure 2, element 202); and

- ♦ image distribution service to store one or more operating system images and that can be installed as the operating system for one or more of the plurality of computing devices (**Babbitt**: page 1, paragraph 7).

Claims 8 and 23

Miyamoto and **Babbitt** disclosed an apparatus as recited in claim 1, wherein the apparatus further comprises a network boot service to:

- ♦ receive, from one of the plurality of computing devices, information describing *hardware* installed on the computing device (*column 5, lines 25-30*); and
- ♦ use the received information to generate a deployment agent to be downloaded to the computing device and used to install the operating system on the computing device (*column 5, lines 25-30*).

Claim 10

Miyamoto and **Babbitt** disclosed a method of deploying an operating system on a plurality of computing devices, the method comprising:

- ♦ performing a first portion of an installation process on each of the plurality of computing devices asynchronously across the plurality of computing devices (**Miyamoto**: *column 6, lines 30-41*); and

- ♦ performing a second portion of the installation process on each of the plurality of computing devices concurrently (**Babbitt**: page 1, paragraphs 5-7)
- ♦ And as claim 1 above.

Claim 11

Miyamoto and **Babbitt** disclosed a method as recited in claim 10, wherein performing the second portion comprises downloading an operating system image to the plurality of computing devices (**Babbitt**: page 1, paragraphs 5-7).

Claim 14

Miyamoto and **Babbitt** disclosed one or more computer readable media having stored thereon a plurality of instructions that, when executed by one or more processors, causes the one or more processors to:

- ♦ receive, from each of a plurality of computing devices, an indication that the computing device is to have an operating system installed on the computing device (**Babbitt**: page 1, paragraphs 5-7);
- ♦ for each of the plurality of computing devices, identify, in response to receiving the indication, a set of steps to be taken in order to install an operating system on the computing device (**Babbitt**: page 1, paragraphs 5-7); and

- ♦ control installation of the operating systems on the plurality of computing devices asynchronously and in parallel (**Babbitt**: page 1, paragraphs 5-7; **Miyamoto**: column 6, lines 30-41).
- ♦ And as claim 1 above.

Claim 15

Miyamoto and **Babbitt** disclosed one or more computer readable media as recited in claim 14, wherein the indication that the computing device is to have an operating system installed is an indication that the computing device has been powered-on (**Babbitt**: page 1, paragraph 6).

Claim 16

Miyamoto and **Babbitt** disclosed one or more computer readable media as recited in claim 14, wherein one or more of the plurality of computing devices currently has no operating system installed (**Babbitt**: page 1, paragraph 5, first three sentences).

Claim 19

Miyamoto and **Babbitt** disclosed one or more computer readable media as recited in claim 18, wherein the portions that are transferred to the plurality of computing devices in parallel are larger than the portions transferred to the

plurality of computing devices asynchronously (**Miyamoto**: column 3, lines 64-65, “miniaturized version”).

Claim 20

Miyamoto and **Babbitt** disclosed one or more computer readable media as recited in claim 18, wherein the portions that are transferred to the plurality of computing devices in parallel comprise an image of the operating system being deployed (**Babbitt**: page 1, paragraphs 5-7).

Claim 21

Miyamoto and **Babbitt** disclosed one or more computer readable media as recited in claim 14, wherein the instructions cause the one or more processors to perform multiple steps of the set of steps asynchronously across the plurality of computing devices, and, after a particular one of the set of steps is completed, to perform one or more of the remaining steps of the set of steps in parallel across the plurality of computing devices (**Babbitt**: page 1, paragraphs 5-7).

Claim 22

Miyamoto and **Babbitt** disclosed one or more computer readable media as recited in claim 21, wherein the one or more remaining steps includes a step of

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downloading an operating system image to the plurality of computing devices

(Babbitt: page 1, paragraphs 5-7).

Claims 27 and 33-38

The limitations of claims 27 and 32-38 correspond to the limitations of claims 1-7, 10-11, 14-16, 18-22 and 27-30 and as such are rejected in the same manner.

Claim 28

Miyamoto and **Babbitt** disclosed a method as recited in claim 27, wherein the same operating system is to be installed on each of the plurality of devices

(Babbitt: page 1, paragraphs 5-7; clearly some systems are installing the same OS from the same multicasting server).

Claim 29

Miyamoto and **Babbitt** disclosed a method as recited in claim 27, wherein a different operating system is to be installed on at least a subset of the plurality of devices *(Babbitt: page 1, paragraphs 5-7; clearly some system are installing differing OS's from differing multicasting servers).*

Claim 30

Miyamoto and **Babbitt** disclosed a method as recited in claim 27, wherein one or more of the plurality of devices currently has no operating system installed (**Babbitt**: page 1, paragraph 5, first three sentences).

4. Claims 9, 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Miyamoto** et al. (USPN 6,986,033) in view of **Babbitt** et al. (US Patent Application Publication US 2002/0198972) in view of **Curtis** et al. (USPN 6,687,902).

Claim 9

Babbitt did not explicitly state an apparatus as recited in claim 1, wherein the installation comprises maintaining a record of what operations are performed when installing the operating systems on the plurality of computing devices. **Curtis** demonstrated that it was known at the time of invention to record installation steps (column 6, lines 38-47). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Babbitt** with the logging of installation steps/changes as found in **Curtis**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide a system, which can undo changes or fix errors created by incorrect or mistaken installations (**Curtis**: column 6, lines 38-47).

Claim 13

Babbitt disclosed a method as recited in claim 10, further comprising adding an indication of the installation process performed on each of the plurality of computing devices to a log. **Curtis** demonstrated that it was known at the time of invention to record installation steps (column 6, lines 38-47; column 5, line 46 to column 6, line 2). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Babbitt** with the logging of installation steps/changes as found in **Curtis's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide a system, which can undo changes or fix errors created by incorrect or mistaken installations (**Curtis**: column 6, lines 38-47).

Claim 26

Babbitt did not explicitly state one or more computer readable media as recited in claim 14, wherein the plurality of instructions further cause the one or more processors to log, for each of the plurality of computing devices, the set of steps taken in order to install the operating system on the computing device. **Curtis** demonstrated that it was known at the time of invention to record installation steps (column 6, lines 38-47). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of

Babbitt with the logging of installation steps/changes as found in **Curtis's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide a system, which can undo changes or fix errors created by incorrect or mistaken installations (**Curtis**: column 6, lines 38-47).

5. Claims 12, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Miyamoto** et al. (USPN 6,986,033) in view of **Babbitt** et al. (US Patent Application Publication US 2002/0198972) in view of **Hofmann** et al. (USPN 6,236,983).

Claim 12

Miyamoto and **Babbitt** did not explicitly state a method as recited in claim 10, wherein performing the first portion comprises:

- ♦ downloading a deployment agent loader to obtain, from each of the plurality of computing devices, information describing hardware installed on each of the plurality of computing devices (**Miyamoto**: column 25-31); and
- ♦ downloading, to each of the plurality of computing devices, a deployment agent, wherein the deployment agent downloaded to a particular computing device is generated based on the received information regarding the particular computing device.

Hofmann demonstrated that it was known at the time of invention to download discovery agents for information gathering (column 3, lines 35-41). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the operating system installation system of **Babbitt** with downloading discovery agent software as found in **Hofmann's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to reduce user interaction (**Hofmann**: column 3, lines 41-43).

Claim 24

Miyamoto and **Babbitt** did not explicitly state one or more computer readable media as recited in claim 14, wherein the set of steps includes steps of:

- ♦ downloading a deployment agent loader to one of the plurality of computing devices;
- ♦ receiving, from the deployment agent loader, information describing hardware installed on the one computing device;
- ♦ dynamically generating a deployment agent for the one computing device based at least in part on the hardware installed on the one computing device; and
- ♦ downloading the dynamically generated deployment agent to the one computing device.

Hofmann demonstrated that it was known at the time of invention to download discovery agents (column 3, lines 35-41). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the operating system installation system of **Babbitt** with downloading discovery agent software as found in **Hofmann**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to reduce user interaction (**Hofmann**: column 3, lines 41-43).

Claim 25

Miyamoto and **Babbitt** or more computer readable media as recited in claim 24, wherein the set of steps further includes:

- ♦ downloading, in response to a request received from the deployment agent on the one computing device, an image of an operating system to the one computing device (**Babbitt**: page 1, paragraphs 5-7).

6. Claims 17 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Miyamoto** et al. (USPN 6,986,033) in view of **Babbitt** et al. (US Patent Application Publication US 2002/0198972) in view of **Agnihotri** et al. (USPN 6,763,456).

Claim 17

Babbitt did not explicitly state one or more computer readable media as recited in claim 14, wherein one or more of the plurality of computing devices currently has an operating system installed. **Agnihotri** demonstrated that it was known at the time of invention to install clean/update installations (column 9, lines 38-48), thus an operating system already is installed. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Babbitt** with update or replace an existing operating system as found in **Agnihotri's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to keep a system state-of-the-art and repair damaged systems (**Agnihotri**: column 9, lines 38-48).

Claim 31

Babbitt did not explicitly state a method as recited in claim 27, wherein one or more of the plurality of devices currently has an operating system installed. **Agnihotri** demonstrated that it was known at the time of invention to install clean/update installations (column 9, lines 38-48), thus an operating system already is installed. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Babbitt** with update or replace an existing operating system as found in **Agnihotri's** teaching. This implementation would have been obvious because one of

ordinary skill in the art would be motivated to keep a system state-of-the-art and repair damaged systems (**Agnihotri**: column 9, lines 38-48).

7. Claims 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Miyamoto** et al. (USPN 6,986,033) in view of **Babbitt** et al. (US Patent Application Publication US 2002/0198972) in view of **Paul** et al. (US Patent Application Publication US 2002/0161868).

Claims 39 and 40

Babbitt did not explicitly state setting one or more BIOS or RAID parameters. **Paul** demonstrated that it was known at the time of invention to configure BIOS parameters such as address for multicast booting (page 3, paragraphs 0025-0033) and for use in other hardware platforms (page 3, paragraph 0025). Official Notice is taken that RAID is a commonly used hardware scheme. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the multicast system of **Babbitt** with BIOS and RAID parameter configuration as suggested by **Paul's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to implement the initial parameters for operation in a standard manner for easy design and maintainability (page 3, paragraph 0029, 0031; page 7, paragraph 0072).

Response to Arguments

8. Applicant's arguments, see Appeal Brief, filed 15 May 2006, with respect to the rejection(s) of claim(s) 1, 3-40 (concerning programs being asynchronously transmitted) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of **Miyamoto** et al. (USPN 6,986,033).

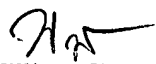
Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 9:00am - 5:30pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)-272-3719. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.


William H. Wood
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August 21, 2006


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